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EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS: TREATY BODIES

Report of the Secretary-General on effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

Introduction

1. In its resolution 2000/75, the Commission on Human Rights requested the Secretary-General to report to it at its fifty-eighth session on measures taken to implement that resolution and obstacles to its implementation, and on measures taken or planned to ensure financing and adequate staff and information resources for the effective operation of the human rights treaty bodies. The present report was prepared pursuant to that request.

I. MEASURES TAKEN TO ENSURE FINANCING AND ADEQUATE STAFF FOR THE EFFECTIVE OPERATION OF THE HUMAN RIGHTS TREATY BODIES

2. Determining with reasonable precision the "adequate" level of resources required for the effective operation of the treaty bodies is a difficult task that must constantly be repeated as more States ratify more treaties, as the treaty bodies expand their work and as some request and obtain authorization to embark on additional activities. The functioning of the human rights treaty bodies is a dynamic process whereby methods of work are constantly being reviewed and revised to meet the challenges of new situations that arise in the course of their work.

3. The Committee against Torture, for example, has decided to pursue the establishment of a working group, starting with the 2002-2003 biennium, to precede each of its sessions (see A/56/44, paras. 13-15 and annex VIII). The Committee, one of only two that at present do not have pre-sessional working groups, seeks to facilitate its monitoring activities, particularly under article 22 of the Convention. The establishment of the working group, if approved, would require the usual secretariat services, as well as resources to cover the additional subsistence allowance for members.

4. The new reporting requirements relating to the two recently adopted Optional Protocols to the Convention on the Rights of the Child will add considerably to the workload of the Committee on the Rights of the Child, and consequently also to the work of the Secretariat. The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, will enter into force on 18 January 2002 while the Optional Protocol on the involvement of children in armed conflict, will enter into force on 12 February 2002. In addition, during the 2002-2003 biennium, it is expected that the proposed amendment to article 43, paragraph 2, of the Convention on the Rights of the Child raising the number of members of the Committee on the Rights of the Child to 18 from the current 10 will have been accepted by a sufficient number of States parties to enter into force. When the new members assume their functions, the pace at which the Committee works will be greatly accelerated and the resulting demands on the Secretariat, at present servicing levels, would also rise proportionately.

5. Extraordinary events can add significantly to a committee's servicing requirements, although these may be one-time events. For example, the Committee on Economic, Social and Cultural Rights at its extraordinary sessions held in 2000 and 2001 examined 12 reports of States parties in addition to the 19 reports examined at its four regular sessions. This work involved additional support from the Secretariat, as well as additional costs associated with the travel of experts.

6. Several independent studies have been prepared on the treaty system offering numerous recommendations for improving its effectiveness. Two academic studies were completed in 2001, one on the functioning of the treaty system by Professor Anne Bayefsky of York University, Canada, and the second on the impact of the treaties in 20 countries by Professor Christof Heyns of the University of Pretoria, South Africa. One of the common conclusions reached by these and other studies concluded to date is, that current levels of support are inadequate to deal with the growing workloads faced by the treaty bodies and that much more support must be given to make their work truly effective.

7. In the budget for the 2000-2001 biennium, provision had been made for the recruitment of two additional staff members to work with the Geneva-based treaty bodies and temporary assistance has been hired to address the backlog of communications awaiting response. In the 2002-2003 budget, one additional Professional post and two General Service posts have been requested to assist the Geneva-based bodies in respect of State reporting and the processing of communications under the complaints procedures (see A/56/6 (section 22), para. 22.41).

8. With respect to the Committee on the Elimination of Discrimination against Women, which is serviced by the Division for the Advancement of Women of the Department for Economic and Social Affairs of the Secretariat, two additional Professional posts and a General Service post were requested for the 2002-2003 biennium. A major responsibility for these posts will be to undertake the various tasks related to the entry into force of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which entered into force on 22 December 2000. In addition, increased additional non-post resources have been requested for general temporary assistance during peak workload periods expected to result from the establishment of the Optional Protocol procedures, as well as additional travel funds for Committee members (see A/56/6 (section 9), para. 9.9 (c)).

9. The regular budget posts in Geneva would continue to be supplemented by extrabudgetary posts. A considerable number of extrabudgetary posts have been filled through the various plans of action for the treaty bodies since 1997 and have proven to be valuable in providing a variety of services. They have allowed treaty body sessions to be more thoroughly and efficiently prepared with respect to all the functions of the treaty bodies, as well as enabling better conduct of inter-sessional follow-up. Since 2000, additional personnel in the newly established Petitions Unit are now able to keep pace with incoming correspondence and have helped nearly to clear the large backlog of individual communications that had accumulated in previous years. In particular, communications that had been submitted in the Russian language had accumulated owing to a lack of staff with the specialized legal and linguistic backgrounds necessary to deal with them. This problem is now well on the way to being resolved. In 2002, efforts will continue to professionalize the process of dealing with individual communications through the development of either or both a complaints protocol and a practice manual.

II. MEASURES TAKEN TO ENSURE ADEQUATE INFORMATION RESOURCES FOR THE EFFECTIVE OPERATION OF THE HUMAN RIGHTS TREATY BODIES

10. The Research and Right to Development Branch of the Office of the High Commissioner for Human Rights (OHCHR) is responsible, inter alia, for developing, harmonizing and maintaining databases in order to maximize the efficiency of the electronic storage and retrieval of data and full-text documents, as well as maintaining the OHCHR Web site, through which all public information from these databases is made available to the general public. To this end, the Office is continuously strengthening its technical capacity in terms of equipment, software and technical staff. Members of the public with interest in the treaty bodies are among the principal beneficiaries of the new structure, since input to the treaty body database can now be systematically and rapidly updated. A prototype of a database for communications that had been developed, enabling retrieval of both simple facts (such as dates of submissions) and full-text public documents, is now fully operational. Continued strong progress in this area will depend on the availability of adequate resources.

11. Ensuring that the treaty bodies are provided with sufficient information to fulfil their responsibilities is a major responsibility of their secretariats. The strengthened staff support available to them has made it possible for the treaty bodies to be provided with considerable documentation from publicly available sources. In addition, three treaty bodies, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women

and the Committee on the Elimination of Racial Discrimination, are aided by umbrella organizations that facilitate the participation and coordinate the submissions of non-governmental organizations, particularly national organizations. The valuable contributions of these umbrella organizations have helped the corresponding committees considerably in dealing with States parties' reports. The other committees are routinely provided with information by certain reliable organizations from the non-governmental community. While these are not treaty-specific umbrella organizations, they often do channel information from national organizations to the treaty bodies as well as submit their own views. They have proven to be very valuable aids for the Committees.

III. ASSISTANCE PROVIDED TO STATES PARTIES IN REGARD TO THE PREPARATION OF REPORTS

12. As of 30 November 2001, the number of initial reports that were overdue under the various treaties ranged from 15 to 50, with the States concerned representing from 10 to 31 per cent of the parties to the relevant treaty. This marks an improvement from two years ago, when the number of overdue initial reports and the proportion of States parties affected ranged from 20 to 60 over due reports from 15-42 per cent of States parties. Furthermore, the total number of reports, initial and periodic, that are overdue remains high. As of 25 November 2001, nearly 1,300 reports are overdue under the six treaties, of which approximately 500 have been overdue for more than five years. The number of reports that are overdue thus continues to be a cause for serious concern.

13. The technical cooperation programmes of the United Nations in the field of human rights address needs for assistance, upon the request of States, through regional, subregional and national training workshops on reporting under the treaties. Requests for such workshops continue to increase and the benefits of past experience are reflected in the training methods and materials that have been developed for use in those workshops. In addition, the United Nations fellowship programme in the field of human rights has traditionally been dedicated to training in reporting under the treaties. The next fellowship programme is planned for the first half of 2002. The report of the Secretary-General to the Commission on advisory services and technical cooperation in the field of human rights (E/CN.4/2002/116) contains details of these activities.

14. The human rights strengthening programme (HURIST), developed jointly by OHCHR and the United Nations Development Programme (UNDP), makes funds and expertise available, at the request of Governments and country and regional offices of UNDP and OHCHR, for a wide variety of human rights-related activities. These may include training on human rights reporting and there have been strong indications of interest for such projects, particularly as part of the functions of United Nations Volunteers who are dispatched to UNDP country offices under HURIST.

15. Most of the treaty bodies continue, as a standing item on their agendas, to examine ways in which the reporting process can be rationalized and simplified, including by revising their reporting guidelines and focusing on the major issues in the lists of issues, drawn up on the basis of States parties reports which are sent to them prior to the examination of their reports. In 2002, the treaty bodies will participate in an inter-committee meeting to explore possible common approaches to their methods of work.

16. States parties are reminded that they can, if they wish, already take certain steps to reduce duplication in reporting. States may submit once, in a "core document", general information on the land, people, structure of government, etc. that would otherwise be presented in the general part of their reports under all of the treaties. To date, 115 States have submitted a core document. In addition, members of the treaty bodies and the secretariat can more easily draw upon information presented to other treaty bodies with the development of modern electronic information management and retrieval systems in the United Nations system, most notably through the Internet. A number of States parties have begun to make cross-references in their reports to information already submitted to other treaty bodies, rather than repeating it in several reports.

IV. PUBLICATION OF THE REVISED MANUAL ON HUMAN RIGHTS REPORTING IN ALL THE OFFICIAL UNITED NATIONS LANGUAGES

17. The Manual on Human Rights Reporting (United Nations publication, sales No. GV.E.97.0.16) currently exists in the English and Spanish languages and is used extensively by the United Nations in training programmes relating to reporting under the treaties. Further work on the preliminary translation that had been undertaken into Russian has not been resumed owing to lack of funds.

18. Recent developments, however, call for updating of the current version of the Manual. In particular, new reporting guidelines have been adopted by the Committee on the Rights of the Child relating to the two new Optional Protocols to the corresponding Convention, which need to be reflected in the Manual. The sections pertaining to the other treaty bodies also require updating.

19. However, no regular budget funds have been allocated for this purpose. Although the High Commissioner for Human Rights, in the 2001 Annual Appeal of her Office, requested extrabudgetary resources to help finance the OHCHR publications programme, in which the revision and translation of the Manual is a high priority, none have been forthcoming. The request has been repeated in the 2002 Annual Appeal. Pursuant to resolution 2000/75 of the Commission on Human Rights and resolution 55/90 of the General Assembly, efforts will be made to publish the Russian version and translate the Manual into French, Arabic and Chinese as soon as possible, subject to availability of funds.